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5 In the Matter of Application No. 99-1:
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7 SUMAS ENERGY 2 GENERATION
8 FACILITY
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THE ENERGY DIVISION OF THE
WASHINGTON STATE OFFICE OF
TRADE AND ECONOMIC
DEVELOPMENT RESPONSE TO
MOTION FOR RECONSIDERATION
by SUMAS ENERGY 2 – and
POSTHEARING ORDER No. 4,
COUNCIL ORDER 756

17 DATED this 30th day of March, 2001.
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19 The Energy Division of the Washington State Office of Trade and Economic Development
20 (Energy Division) takes no position on the motion by Sumas Energy 2, Inc. for reconsideration
21 of the Council's recommendation to deny site certification for the Sumas Energy 2 facility.
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23 However, should the Council grant the motion for reconsideration, the Energy Division
24 strongly requests that the Council reopen the record to allow testimony and examination of
25 multiple issues raised by the applicant and intervenors since the record was closed.

26 In their motion for reconsideration Sumas Energy 2 (SE2) introduces substantial

1 changes to the project and new evidence into the record,. If the motion for reconsideration is
2 granted, the Energy Division, other intervenors, and the Council should be afforded a full
3 opportunity for examination and response to the applicant's new information, proposed
4 changes to the project, and other relevant issues.

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6 At a minimum, the Energy Division would like five items considered, if the motion for
7 reconsideration is granted:

- 8 1. The impact of the applicant's proposal to abandon diesel backup generation on natural gas
9 supplies and prices particularly during peak demand periods;
- 10 2. The proposal by the applicant to accept need and consistency requirements;
- 11 3. The level and type of greenhouse gas mitigation required for the project, especially in light
12 of the recent Council decision on the Chehalis Power Generating Facility;
- 13 4. The feasibility of using non-diesel backup fuels to mitigate constraints on price and supply
14 of natural gas during times of peak demand, and
- 15 5. The ramifications of the newly discovered earthquake fault on the design of the facility and
16 the adequacy of the proposed design changes .

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18 **1. Impact of Abandonment of Diesel Backup**

19 In their motion for reconsideration, SE2 proposes that "the Council condition its
20 recommendation on the elimination of the project's back-up fuel option." (SE2 Motion for
21 Reconsideration at 12). Elimination of diesel backup with no other substitute backup fuel
22 will place full demand for natural gas delivery to this facility on the natural gas pipeline at
23 precisely the same time that the applicant stated in their testimony would be the optimum time
24 to release natural gas capacity to residential and business consumers to provide additional
25 supplies at times that delivery might otherwise be curtailed. SE2 Post Hearing Brief at 5) In
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1 addition the peak time for natural gas demand coincides with the peak demand for electricity in
2 the Northwest, so presumably the SE2 facility would be requiring peak gas deliveries.
3 Coincident peak demand on the pipeline capacity from natural gas consumers and this facility
4 could have significant impacts on natural gas availability and price volatility. The Energy
5 Division offered evidence in the hearings concerning the possible negative impacts of demand
6 by this facility on natural gas prices and supply. (Lazar prefiled testimony at 6). While the
7 Council quoted Energy Division testimony on the negative impacts on the market for diesel
8 fuel during times of fuel switching as a factor in their recommendation for denial, the Council
9 was, for obvious reasons, silent on the negative impacts on the natural gas price and
10 deliverability if the facility was approved for operation. The Energy Division is including 4
11 attachments. Attachment 1, a graph (from Natural Gas and Power in Washington: A survey of
12 the Pacific Northwest natural gas industry on the eve of a new era in electric generation
13 (draft)), demonstrates the increased demand in the year 2000 for natural gas for electricity
14 generation in the western U.S. Attachment 2 demonstrates the impact on the price of natural
15 gas at the Sumas hub as supply became constrained leading up to and during the winter of
16 2000/2001. Attachment 3 illustrates increasing natural gas rates for Washington consumers,
17 precisely the type of potential negative impact described in our testimony. If the motion for
18 reconsideration is granted, the Energy Division requests that the Council open the record to
19 take additional testimony on the impacts on natural gas supply and deliverability based upon
20 last winters experience in the state, or in the least it consider the Energy Division's original
21 testimony that the applicaant obtain new incremental pipeline capacity and natural gas supply
22 prior to construction to mitigate negative impacts on other consumers of natural gas.
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2 **2. Applicant's Addition of Need and Consistency Requirement**

3 The applicant now acknowledges the Council's concern about ensuring that project benefits
4 accrue to the citizens of the State of Washington, while steadfastly refusing to guarantee any
5 power to the citizens of Washington during the hearing. TR 236 (Jones) SE2 goes on the state
6 that, "[i]f the Council believes that the need and consistency requirements are necessary to
7 justify certification, the Council should include those requirements in the SCA..." (SE2
8 Motion for Reconsideration at 10) While we are gratified that the applicant appears to be
9 acknowledging that need and consistency provisions in their SCA increases the likelihood that
10 benefits from a merchant power plant will accrue to Washington citizens, the proposed
11 language is not sufficient. Also we note that the applicant is only proposing to add the
12 language after their application was recommended for denial. Thus, we believe that the
13 Council, if it grants the motion for reconsideration, should provide the opportunity for
14 intervenors to examine the applicant's witnesses thoroughly on their intent in proposing to add
15 the language, their understanding of implementation of any need and consistency approaches,
16 and how their implementation of their suggested need and consistency language would
17 guarantee "a reasonable price".
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21 The Energy Division originally proposed similar language, as now proposed by the
22 applicant, in its prefiled testimony. However, during the course of the hearings we identified
23 loopholes in the original language, which the applicant's witness Litchfield agreed were there. .
24 (Energy Division Final Brief at 9-10) This is the same language the applicant is now proposing
25 in their new draft SCA
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1 Pursuant to a bench request from the Council, we identified three options that would
2 close the loophole and give need and consistency as a policy some substance, and would
3 ensure that the original intent of the need and consistency language was met to varying
4 degrees. In our final brief we supported Option 3 of the bench request, which recommended
5 that the applicant provide 220 megawatts of energy conservation and renewables. The project
6 would, with our recommendation, provide a combination that we believe to substantially meet
7 the least cost test of integrated resource planning and provide benefits to the citizens of
8 Washington. (Energy Division Final Brief at 9)

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11 Need and consistency requirements in an SCA are of particular importance and value to
12 Washington State, especially in a period of electricity supply and price volatility in the
13 Northwest. Any reconsideration should fully consider the range of need and consistency
14 provision options and their implications for Washington citizens.

16 We also request that the Council take notice of Attachment 4, which is an article that
17 describes the U.S. Supreme Court denied cert on an appeal of the Florida Supreme Court
18 decision that was referenced in our brief, (Energy Division Final Brief at 12-13) regarding the
19 jurisdiction of the state imposing need requirements on facilities within the state. (The Florida
20 law actually prohibits wholesale "merchant" power plants in the state and the article notes that
21 the Florida Public Utility Commission, the state's siting authority, is dismissing siting
22 proceedings for two proposed wholesale "merchant" power plants, based on the U.S. Supreme
23 Court ruling.)

1 **3. Greenhouse Gas Emissions**

2 With respect to greenhouse gas emissions, the Applicant has proposed a modification to its
3 project. CO2 emissions from the SE2 plant and their implications for climate change were a
4 subject of substantial evidence and testimony during the SE2 hearings. Following the
5 conclusion of the SE2 proceedings the Council issued an amended Chehalis SCA that included
6 a requirement that the project developer “offset the **total** [emphasis added] increase (8%) in
7 greenhouse gas emissions from the CGF that will result from Amendment No. 1 to the SCA.”
8 (Chehalis Generating Facility Amended SCA at 19) In light of this decision, it is appropriate
9 that the Council fully consider the level, type, and process for CO2 mitigation requirements for
10 SE2.
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12 Mitigation for greenhouse gases is a relatively new phenomenon, however, because of
13 Oregon’s greenhouse gas power plant mitigation requirements there is a good deal of
14 experience with project mitigation information available to the Council. This information, as
15 well as additional options, up to and including full mitigation, should be fully examined in any
16 reconsideration. We believe that the record would show that that the cost of full mitigation
17 would be on the same order of magnitude on a present value basis as a sales tax, which is an
18 relatively insignificant variable in the cost of doing business in a natural gas-fired combined
19 cycle combustion turbine, (approximately \$0.05 difference in the cost of natural gas over the
20 life of the facility or approximately \$1.00 difference over one year out of twenty five or thirty),
21 particularly given the current market prices for electricity and natural gas.
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25 **4. Feasibility of Using Non-Diesel Backup**
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1 The lack of a backup fuel for the SE2 project may have significant impacts on the state and
2 regional natural gas market. In our testimony we recommended that the Council require the
3 applicant to consider other fuels, such as liquefied natural gas (LNG) as a backup fuel. (Lazar
4 prefiled testimony at 16) We believe that the reasons we cited continue to be valid. Thus the
5 Council should include consideration of LNG or other non-diesel fuels as possible alternative
6 backup fuel for the facility.
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8 We also recognize that obtaining new incremental pipeline capacity and natural gas
9 supply prior to construction to mitigate negative impacts on other consumers of natural gas
10 may be a viable option, in lieu of alternative backup fuel.
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12 **5. Earthquake Fault**

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14 In December the Counsel for the Environment and Whatcom County filed a motion for
15 reconsideration based on new information concerning earthquake faulting in the Sumas area.
16 In its Order 745, the Council noted that “[i]n light of our decision to recommend that the
17 application be denied on other ground, the motion is denied.” (Council Order 753 at 45).
18 While the Energy Division did not weigh in on the motion at that time, nonetheless, since the
19 applicant offers a design criteria that is represented to be sufficient to protect the public health
20 and safety. However the public health and safety demands that the design suggested by the
21 applicant either be signed by a Professional Engineer or at a minimum subject to hearing and
22 cross examination by the intervenors for the record and review by the Council If the Council
23 reconsiders its recommendation, the earthquake fault and subsequent proposed design
24 safeguards should be considered as part of the reopening.
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2 **Conclusion**

3 Should the Council chose to reconsider its recommendation to deny certification for the SE2
4 facility, the Energy Division respectfully requests that all intervenors be afforded the
5 opportunity to cross examine witnesses and enter new evidence into the record on these new
6 issues , as well as additional issues, that other intervenors raise. The only way that the
7 Council will be able to fairly and fully consider both the applicant's new evidence and
8 proposed changes to the SCA and the intervenors response to that information and proposed
9 changes is to reopen the record for new hearings.
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